

REMARKS

A petition to extend the time for response by two (2) months is enclosed herewith.

Claims 8 and 15 have been amended. A new independent claim 18 and new claims 19 – 22 have been added. Claims 8 - 22 are currently pending.

In the Office Action, claim 8 – 17 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Also, in the Office Action, claims 8 - 17 have been rejected under 35 U.S.C. § 102 (e) as anticipated by U.S. 2005/0039782 to Kim. Additionally, in the Office Action, claims 8 – 10 and 12 - 14 have been rejected under 35 U.S.C. § 102 (b) as anticipated by DE 195 12 128 to Graute.

Favorable reconsideration is respectfully requested in view of the amendment of claims 8 and 15 and the following comments.

With regard to the rejection of claims 8 – 17 under 35 U.S.C. §112, second paragraph, as being indefinite, claims 8 and 15 have been amended to now clearly indicate the subcombination of a device for adjusting the height position of a dishware basket. Accordingly, it is respectfully submitted that the rejection of claims 8 – 17 under 35 U.S.C. §112, second paragraph, is now overcome.

With regard to the rejection of claims 8 – 17 under 35 U.S.C. § 102 (e) as anticipated by U.S. 2005/0039782 to Kim, Applicants submit that U.S. 2005/0039782 to Kim is not prior art under 35 U.S.C. § 102 (e).

With regard to the rejection of claims 8 – 10 and 12 - 14 under 35 U.S.C. § 102 (b) as anticipated by DE 195 12 128 to Graute, reconsideration is respectfully requested in view of the following remarks.

Claim 8 of the present application as currently amended recites a device for adjusting the height position of a dishware basket which can be pulled out from the rinsing container of a dishwashing machine. The inventive device includes a basket support plate that can be arranged on a side wall of the dishware basket formed from horizontally and vertically extending basket struts.

The support plate is adjustably mountable on the dishware basket at different height positions by an adjustment lever which is swivelly mounted to the basket support plate and includes a handle end located in a recess formed in the basket support plate. The adjustment lever includes a catch hook arranged on the handle end oriented to the dishware basket interior and located in the recess. The adjustment lever and the basket support plate engage automatically when the dishware basket is moved from a lower height position into an upper height position on the horizontally extending basket struts. Also, the adjustment lever and the basket support plate disengage after a handle part on the handle end is actuated in the direction of the dishware basket interior from the horizontally extending basket struts and the dishware basket moves automatically from the upper height position into the lower height position.

DE 195 12 128 to Graute discloses a device for adjusting the height position of a dishware basket of a dishwashing machine. The pivoting movement of a handle 15 moves a projection 17 out of engagement with a respective one of a plurality of nesting apertures 18, whereupon the dishware basket is then free to be elevated or lowered into a new vertical position. Thereafter, the projection 17 is moved into engagement with a respective another one of the plurality of nesting apertures 18 to secure the dishware basket at the new vertical position.

It is submitted that the device for adjusting the height position of a dishware basket of a dishwashing machine of DE 195 12 128 to Graute does not disclose an adjustment lever and a basket support plate that engage automatically when the dishware basket is moved from a lower height position into an upper height position on the horizontally extending basket struts, as is recited in claim 8 of the present application as currently amended. Instead the device of DE 195 12 128 to Graute requires a pivoting movement of the handle 15 to move the projection 17 into engagement with a respective another one of the plurality of nesting apertures 18 and thereby secure the dishware basket at the new vertical position. This pivoting movement of the handle 15 requires user intervention and is, thus, not an automatic engagement. Accordingly, it is

submitted that claim 8 of the present application as currently amended is neither taught nor disclosed by DE 195 12 128 to Graute.

It is also submitted that the rejection of claims 9, 10, and 12 - 14 should be withdrawn for at least the same reasons as discussed above with respect to Claim 8 of the present application as currently amended.

It is additionally submitted that new independent claim 18, and claims 19 – 22 depending ultimately therefrom, patentably distinguish over the prior art of record.

As discussed in detail in the preceding remarks, it now is believed that all of the claims are allowable over the prior art and are in allowable form. Early allowance of Claims 8 - 22 is earnestly solicited.

If the Examiner has any questions regarding this amendment, the Examiner is requested to contact the undersigned.

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Respectfully submitted



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June 30, 2006

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